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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,278	09/29/2003	Jack A. DeBraal	1217.18403	3109

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EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/674,278	Applicant(s) DEBRAAL ET AL.	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/9/2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 16-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16, the recitation of the height being adjustable "within the range of at least more than 19 inches" is indefinite for failing to clearly define the metes and bounds of the claimed invention; a range should have at least two numbers. Claim 17, the recitation of the height being adjustable within "a range of at least 23 inches" is indefinite for failing to clearly define the metes and bounds of the claimed invention; a range should have at least two numbers.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7, 9-11, and 13 stand rejected under 35 U.S.C. 102(e) as being anticipated by USP 6,546,880 to Agee.

Agee discloses an adjustable examination table comprising all the elements recited in the above listed claims including, such as shown in Fig 1, a support table 18, a stationary base 12, an adjustable height column comprising a plurality of sleeve sections 16,17 slidably, nestingly connected to one another; at least one longitudinally extending guide rail 32 secured to one of the sleeve sections and having oppositely disposed parallel guide surfaces, such as shown in Fig 3; a first pair of oppositely disposed spaced apart cam followers 30, a second pair of oppositely disposed spaced apart cam followers 30 being latitudinally spaced apart from said first pair of cam followers, such as shown in Fig 2; and means for sliding said sleeve sections relative to one another; wherein said guide rail is axially aligned with said one of said sleeve members 16,17, wherein the table is capable of supporting at least 100 pounds.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 8 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Agee in view of USP 6,682,030 to Santoro et al.

Agee discloses all the elements as discussed above except for the sliding means comprises a linear actuator.

Santoro et al discloses an alternate height adjustable table comprising a plurality of sleeve sections slidably, nestingly connected to one another, means for sliding said sleeve sections relative to one another; wherein said sliding means comprises a linear actuator 68, such as shown in Fig 14, in order to facilitate height adjustment of the table. Therefore, it would have been obvious and well within the level of one skill in the art to modify the structure of Agee by providing an alternate sliding means which comprises a linear actuator in order to facilitate height adjustment of the table, as taught by Santoro et al, since both teach alternate conventional sliding means structure, used for the same intended purpose of adjustable a table height, thereby providing structure as claimed.

9. Claims 10-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,886,200 to Blyshak et al in view of USP 4,552,403 to Yindra.

Blyshak et al discloses an adjustable examination table comprising all the elements recited in the above listed claims including, such as shown in Fig 1, a support table 17, a stationary base 12, an adjustable height column comprising a plurality of sleeve sections 150 slidably, nestingly connected to one another; longitudinally extending guide rails secured to one of the sleeve sections, such as shown in Figs 12-16, and means for sliding said sleeve sections relative to one another; wherein a middle sleeve section comprises at least one of said rails attached to its inner wall and at least one of said guide rails attached to its outer wall, such as shown in Figs 12-16, and said sliding means comprises a linear actuator, such as shown in Figs 8-10. The differences being that Blyshak et al does not disclose each of the guiding rails comprises oppositely disposed parallel guide surfaces; a first pair of oppositely disposed spaced apart cam followers, a second pair of oppositely disposed space apart cam followers being latitudinally spaced apart from said first pair of cam followers, with each of said cam followers being in longitudinally guiding contact with a respective one of said parallel guide surfaces, the table providing up to at least 450 pounds support, the height is adjustable to a maximum height of 39 inches and a minimum height of below 20 inches.

Yindra discloses an adjustable examination table comprising a support table, a stationary base, an height adjustable column comprising a plurality of sleeve sections slidably, nestingly connected to one another; at least one longitudinally extending guide rail 23,25, such as shown in Fig 3, secured to one of the sleeve sections and having oppositely disposed parallel guide surfaces; a first pair of oppositely disposed spaced apart cam followers 26,27, a second pair of oppositely disposed space apart cam

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followers 26,27 being latitudinally spaced apart from said first pair of cam followers; and means for sliding said sleeve sections relative to one another; wherein the longitudinally extending guide rail and the cam followers prevents translation of the sleeve sections from side to side and front to back directions, yet facilitates height adjustment of the table. Therefore, it would have been obvious to modify the structure of Blyshak et al by providing the guiding rails each comprises oppositely disposed parallel guide surfaces; a first pair of oppositely disposed spaced apart cam followers, a second pair of oppositely disposed space apart cam followers being latitudinally spaced apart from said first pair of cam followers, with each of said cam followers being in longitudinally guiding contact with a respective one of said parallel guide surfaces in order to prevent translation of the sleeve sections from side to side and front to back directions, yet facilitates height adjustment of the table, as taught by Yindra, since both teach alternate conventional height adjustable table structure, used for the same intended purpose, thereby providing structure as claimed.

In regard to the table providing up to at least 450 pounds support and the height is adjustable to a maximum height of 39 inches and a minimum height of below 20 inches, it would have been an obvious matter of engineering design choice and well within the level of one skill in the art to modify the structure of Blyshak, as modified, such that the table can have various maximum load supports as well as maximum and minimum heights, since such only involves routine engineering experimentations.

Response to Arguments

10. Applicant's arguments filed 11/9/2006 have been fully considered but they are not persuasive. In response to applicant's argument on page 5 that Agee is drawn to a work table, not an "examination table" and not capable of supporting a person or a heavy weight, the examiner takes the position that the claimed language fails to clearly define what would consider to be an "examination table", and the table of Agee is certainly "capable" of supporting a heavy weight.

11. In response to applicant's argument on page 6 that Agee does not show the described camming mechanism "for the intended use", the examiner takes the position that claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function alone, and the disclosed structure of Agee is capable of performing the recited function/intended use.

12. In response to applicant's argument on page 6 that the cam members 31 of Agee supported by a chain 40 and sprocket 44 arrangement, the examiner takes the position that col. 6, lines 3-6 of Agee disclosed the cam members 31 attached to sleeve member 16.

13. In response to applicant's argument on page 6 that Agee has two separate base sections and not a sleeve, the examiner takes the position that the claimed language fails to recite adequate structural limitations in order to distinguish from Agee; further, the transitional phrase "comprising" is inclusive or open-ended and does not exclude additional, unrecited elements.

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14. In response to applicant's argument on page 7 that Agee does not have a plurality of sleeve sections, just a base section and one sleeve sections, the examiner again takes the position that the claimed language fails to clearly define over the prior art, and Agee meets the claimed limitation of a base 12, and a plurality of sleeves 16,17.

15. In response to applicant's argument on page 8 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation can be found for the reasons stated in the above art rejection.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HVT

November 27, 2006

Hanh V. Tran
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